

THE LAW FIRM OF  
**CONNORS & CONNORS**  
PC  
766 CASTLETON AVENUE  
STATEN ISLAND, NEW YORK 10310-9003  
TEL: 718-442-1700 FAX: 718-442-1717

John P. Connors (1955-2003)  
John P. Connors, Jr.\*

Susan E. O'Shaughnessy  
Robert J. Pfuhler\*\*

Michael P. DeCarlo  
Tara P. Mandelbaum  
Irwin D. Miller  
Gavin C. Fields  
Erik J. McKenna  
Michael J. Hemway\*\*  
Anthony R. Maddaluno\*\*

600 Third Avenue  
New York, New York 10016

New Jersey Office  
Morris Brook Commons  
Suite 6  
422 Morris Avenue  
Long Branch, New Jersey 07740

April 18, 2018

Of Counsel  
William J. Russo

***VIA ECF***

Hon. Katherine B. Forrest  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 2230  
New York, NY 10007-1312

Re: Rivera v. Home Depot USA, Inc. v. Bryan's Home Improvement  
Docket No.: 16cv7552  
Our File No.: SIF 26263

Honorable Judge Forrest:

Our law firm, Connors & Connors, P.C. represents the third-party defendant, Bryan's Home Improvement Corp. in the above named case which was tried to verdict on April 11, 2018 before this Honorable Court.

We have submitted a proposed Judgment (ECF-138) on behalf of our client, after it became apparent, upon conferring with counsel for the plaintiff and counsel for defendant/third-party plaintiff, Home Depot U.S.A., Inc., that the parties are unable to agree on the form of judgment to be entered in this case.

Under New York law, a plaintiff may not recover directly from a third-party defendant against which he has no direct claim Klinger v. Dudley, 421 N.Y.2d 362, 361 N.E.2d 074, 393 N.Y.S.2d 323 (1977). The Workers' Compensation Law is plaintiff's exclusive remedy as against his employer. The only legally enforceable judgment is one in which plaintiff has a direct judgment against Home Depot, and once Home Depot pays that judgment, Home Depot has judgment over against Bryan's Home Improvement Corp.

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I am attaching copies of the New York Court of Appeals decisions in Klinger and Reich v. Manhattan Barber & Equipment Corp., 91 N.Y.2d 772, 698 N.E.2d 939, 676 N.Y.S.2d 110, in support of Bryan's position for the Court's review and consideration.

Respectfully submitted,

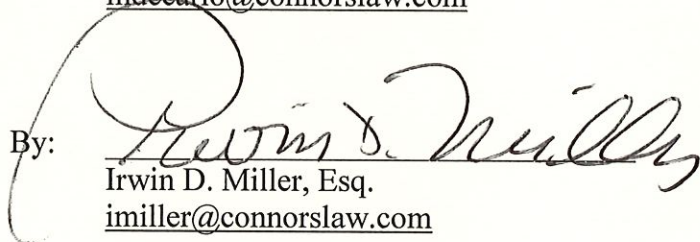
MPD:IDM/mr  
Enclosures

By:



Michael P. De Carlo  
mdecarlo@connorslaw.com

By:



Irwin D. Miller, Esq.  
imiller@connorslaw.com

cc: Ginarte, O'Dwyer, Gonzalez, Gallardo & Winograd, LLP  
(Via Fax No.: 212-267-4262)

D'Amato & Lynch, LLP  
(Via Fax No.: 212-269-3559)